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In re Application of	:	
RADKA, Susan et al.	:	DECISION ON
Application No.: 10/568,134	:	
PCT No.: PCT/US04/26857	:	PETITION UNDER
Int. Filing Date: 17 August 2004	:	
Priority Date: 22 August 2003	:	37 CFR 1.47(a)
Attorney's Docket No.: 03-770-C (700.020US)	:	
For: Detection And Quantitation Of Nucleic Acid	:	
Molecules In Biological Samples	:	

This is a decision on applicant's "Petition Under Rule 1.47(a)," filed in the United States Patent and Trademark Office on 12 April 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Susan Radka.

BACKGROUND

On 17 August 2004, applicants filed international application PCT/US04/26857, claiming an earliest priority date of 22 August 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 22 February 2006.

On 10 February 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee.

On 14 September 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 12 April 2007, applicants filed a response to the Notification of Missing Requirements including, *inter alia*, a five-month extension fee, an executed declaration and the instant petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor Susan Radka.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) a statement of the last known address of the missing inventor, (3) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor and, (4) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

As to items (1) and (2), applicants have submitted the correct petition fee of \$200.00 under 37 CFR 1.17(g) and a statement of the last known address of the non-signing inventor.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration complies with 37 CFR 1.497(a)-(b) and is accepted. Hence, item (3) is satisfied.

With regard to item (4), the declaration of Michael Greenfield represents a firsthand statement by the person who presented non-signing inventor Susan Radka with the complete application. The copy the FedEx tracking report is sufficient to show that the application papers were delivered to the last known address of non-signing inventor Susan Radka on 12 March 2007 (see Exhibit A1). The declaration of Alicia Vagts represents a firsthand statement by a person who was contacted directly by non-signing inventor Susan Radka and to whom a refusal to execute the declaration was explicitly made on 10 April 2007. Hence, item (4) is satisfied.

CONCLUSION

Applicants' petition filed under 37 C.F.R. 1.47(a) is **GRANTED**.

This application has an International Filing Date of 17 August 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 12 April 2007.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.



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